

**UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF VERMONT**

FILED  
U.S. DISTRICT COURT  
DISTRICT OF VERMONT  
10/26/2021

*5:21-mc-149*

IN RE: )  
AMENDED ORDER ON MOTIONS )  
SEEKING RELIEF UNDER THE )  
FIRST STEP ACT OF 2018 )

**GENERAL ORDER #104**

**This order amends and supersedes General Order No. 83. The reason for the amendment is to allow the Federal Public Defender 90 days to file any supplemental pleading in support of motions seeking relief under the First Step Act of 2018, and to allow the United States 30 days to file a response to the defendant's motion.**

The First Step Act of 2018 granted retroactive application of the Fair Sentencing Act of 2010. 124 Stat. 2372. The Office of the Federal Public Defender for the District of Vermont is hereby appointed to represent any defendant previously determined to have been entitled to appointment of counsel, or who was previously represented by retained counsel and is presently indigent, to determine whether that defendant may qualify to seek reduction of sentence and to present any motions or applications for reduction of sentence in accordance with Section 404 of the First Step Act of 2018.

The Federal Public Defenders Office for the District of Vermont is also hereby appointed to represent any defendant previously determined to have been entitled to appointment of counsel, or who was previously represented by retained counsel and is presently indigent, to determine whether that defendant may be eligible for compassionate release from incarceration in accordance with Section 603 of the First Step Act of 2018. Should the Federal Public Defender be unable to represent a defendant bringing a motion under Section 603, substitute Criminal Justice Act counsel may seek leave to appear on defendant's behalf pursuant to 18 U.S.C. § 3006A(c) (representation may be furnished for financially eligible persons in "ancillary matters appropriate to the proceedings"). Any such appearance is voluntary on the part of counsel initially, but the attorney-client relationship attaches upon appearance. Such appointment will not prevent counsel from later seeking to withdraw from the representation.

Upon counsel's appearance on behalf of a defendant seeking relief under the First Step Act, the United States Probation Office for the District of Vermont and the United States District Court Clerk's Office for the District of Vermont are authorized to disclose to counsel, without further order, case records including Presentence Investigation Reports, Judgments in a Criminal Case, Statements of Reasons, criminal history records, and any sealed documents for purposes of determining whether to file, or filing, a motion on behalf of any defendant. However,

this Order does not apply to and does not authorize disclosure of the United States Probation Office's sentencing recommendation. Counsel should be mindful that Presentence Reports and Statements of Reasons are confidential documents (Local Criminal Rule 57.1) and that under Federal Bureau of Prisons policy inmates are not permitted to possess Presentence Reports or Statements of Reasons. (Inmates may, however, make a request to Bureau of Prisons staff to be allowed to review Presentence Reports and Statements of Reasons.)

In accordance with this Order, the Clerk is directed to notify the Office of the Federal Public Defender for the District of Vermont of any motions seeking relief under Section 404 of the First Step Act for retroactive application of the Fair Sentencing Act or Section 603 of the First Step Act for compassionate release. After being notified, the Office of the Federal Public Defender will have **90 days** to file any supplemental pleading in support of the motion.

- (1) The United States shall file a response to the defendant's motion within **30 days**; and
- (2) The defendant may file a reply within 14 days of the United States' response.

SO ORDERED.

Dated at Burlington, in the District of Vermont, this 26th day of October, 2021.



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Geoffrey W. Crawford  
Chief Judge